IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 6TH SEPTEMBER 2007 / 15TH BHADRA 1929

WP(C).No. 10766 of 2007(F)

[CRIME NO.35/07 OF THRIKKUNNAPUZHA POLICE STATION]

PETITIONER:

C.H.SALI, RESIDING AT
CHAKKALAVADAKKATHIL, PALLANA MURI,
THRIKKUNNAPUZHA VILLAGE, KARTHIKAPPALLY TALUK,
ALAPPUZHA DISTRICT.

BY ADV. SRI.R.RAJASEKHARAN PILLAI
SMT.SABINA JAYAN

RESPONDENTS:

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1. THE STATE OF KERALA REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. THE SUPERINTENDENT OF POLICE,
ALAPPUZHA.

3. THE SUB INSPECTOR OF POLICE,
THRIKKUNNAPUZHA, KARTHIKAPPALLY TALUK.

BY GOVERNMENT PLEADER SRI.GIKKU JACOB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN WPC NO.10766/2007

PETITIONER'S EXHIBITS:

EXT.P1:- TRUE COPY OF THE COMPLAINT DATED 4/2/2005 MADE BY THE PETITIONER BEFORE THE S.I.OF POLICE, THRIKKUNNAPUZHA.

EXT.P2:- TRUE COPY OF THE COMPLAINT DATED 3/1/07 MADE BY THE PETITIONER BEFORE THE S.I.OF POLICE, THRIKKUNNAPUZHA.

EXT.P3:- TRUE COPY OF THE FIR IN CRIME NO.35/07 OF THRIKKUNNAPUZHA POLICE.

EXT.P4:- TRUE COPY OF THE COMPLAINT DATED 7/3/07 MADE BY THE PETITIONER BEFORE THE SUPERINTENDENT OF POLICE, ALAPPUZHA.

[TRUE COPY]

R.BASANT, J.

W.P.C.No.10766 of 2007

Dated this the 6th day of September 2007

J U D G M E N T

The petitioner is the de facto complainant/informant in crime No.35/07 of Thrikkunnapuzha police station registered under Section 379 and 34 I.P.C. The said crime was registered on 28/2/2007. The allegation relates to the theft of an outboard engine of a motor boat on 17/2/2007. The crime was registered and investigation is conducted by the local police.

2. The short grievance of the petitioner is that no proper investigation is being conducted into the said crime registered as crime No.35/07. According to the petitioner, the local police has not been evincing due and necessary interest in the proper investigation of the crime. The petitioner has a grievance that on two earlier occasions when similar theft took place, though complaints were made, no proper action was taken by the police. It is, in these circumstances that the petitioner apprehends that no proper investigation shall be conducted into the present crime Ext.P4.

3. Notice was given to the respondents. The investigating officer - the Sub Inspector of Police, Thrikkunnapuzha has submitted a detailed statement. He has, in the statement, narrated the various

steps taken by him for the proper conduct of the investigation. Three persons are named in the F.I.R. All the three have been arrested and their complicity has been ascertained. In the course of the investigation, the fourth accused, in whose autorickshaw the stolen outboard engine was allegedly removed, was also identified and he was arrested. But the investigating officer has not so far been able to trace the thieved board engine. According to the investigating officer, every reasonable step has been taken to ascertain the person to whom the accused persons had sold the thieved board engine; but such efforts have not become fruitful so far. The other accused are not able to give details of the said person, though according to them they will be able to identify the person who received the stolen article from them. Efforts in that direction are in progress. If and when such person is traced and ascertained, necessary action shall be taken in the matter, reports the investigating officer .

4. I have considered all the relevant materials. I have anxiously assessed and evaluated the steps taken by the Sub Inspector of Police. While it is true that the investigation has not achieved complete success - in the sense that the stolen article has not been recovered, it cannot be held that there is any contumacious latches or inadequacy on the part of the investigating officer . I am of

the opinion that it is not, in these circumstances, necessary to direct that the investigation be transferred from the third respondent to any other officer. The third respondent must be directed to continue with the investigation in all earnestness and the second respondent, the Superintendent of Police, Alappuzha can be directed to supervise and monitor the investigation by the second respondent. Such direction, I am satisfied, shall serve the ends of justice.

5. In the result, this writ petition is dismissed but with the specific direction to the third respondent, Sub Inspector of Police, Thrikkunnappuzha / investigating officer to expeditiously complete the investigation and make all efforts to trace the stolen article. There shall be a further direction to the second respondent, Superintendent of Police, Alappuzha to effectively supervise and monitor the investigation conducted by the third respondent.

Hand over copy of this order to the learned Public Prosecutor for ensuring compliance.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007